the moment of the cessation of the war then existing between the United States and England should have ascertained their possessions.

Thirdly: The Treaty called the Consular Convention, concluded on the 14th of November, 1788,

ture should not take place, the mutual obligations of the said guarantee should not commence until

contion, concluded on the 14th of November, 1785, containing the following articles:

ART 8. The Consuls or Vice Consuls shall exercise police over all the vessels of their respective nations; and shall have on board the said vessels all power and jurisdiction in civil matters, in all the disputes which may there arise. They shall have an entire inspection over the said vessels, their crews, and the changes and substitutions therein to be made; for which purpose they may go on board the said vessels whenever they may judge it necessary.

board the said vessels whenever they may judge it necesery,

**ART. 12. All differences and suits between the subjects
of the Most Christian King in the United States, or between
the citizens of the United States within the dominions of
the most Christian King, and particularly all disputes reistive to the wages and terms of engagement of the crews of
their respective vessels, and all the differences, of whatever nature they be, which may arise between the privates
of the said crews, or between captains of different vessels
of their nations, shall be determined by their respective
Consuls. The officers of the country, civil or military, shall
not interfere therein, or take any part whatever in the matter, and the appeals from the said consular tribunals shall
be carried before the tribunals of France or of the United
States.*

The French Revolution began in 1789, and in 1793 it became a general European war, in which France, while treading continually upon the fiercest internal fires, bared her head to all the thun-

Washington, by the serene tranquility and majestic justice of his character, repressed the sympathies of the United States for France and the Republican cause, and sent forth his memorable productions of the service derbolts of Despotism. ble proclamation: "Whereas," said the President, "it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands on the one part, and France on the other, and the duty and interest of the United States require that they should, with sincerity and good faith, adopt and pursue a con-duct friendly and impartial toward the belliger-ent powers, I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid."

No less a character than Washington could

No less a character than Washington could have assumed neutrality in such a crisis. Nor could even be protect it in that fierce conflict of armed opinion which raged throughout Europe, as if all its separate and widely different States had been one entire yet distracted commonwealth. The cost of supplies rose two, three, and four fold, under the demands of the belligerent The United States put in motion, for nations. The United States put in motion, ior once, and all at once, the three wheels of industry, Production, Manufacture, and Exchange, and wealth flowed in upon them like a springtide. The combatants, relapsing into the mortial of the combatants and the mortial of the combatants. ality of the Barbary Powers, seized and confis-cated neutral ships and their cargoes. American commerce was thus suddenly checked, and the revenues it yielded rapidly declined. Jefferson, n Secretary of State, met the emergency with a declaration :

I have it in charge from the President to assure the mer-chants of the United States concerned in foreign commerce or unvigation, that attention will be paid to any injuries they may suffer on the high seas or in foreign countries, contrary to the law of mations or to existing treaties; and that, on their forwarding biliner well-authenticated evidences of the same, proper proceedings will be adopted for their relief."

The American merchants, thus stimulated, pro secuted more diligently than before a trade which yielded enticing profits, while its risks seemed to have been underwritten by their country. The maritime injuries suffered by Americans at the hands of France in the course of the war were at the time classified as follows:

First: Spoliations and mal-treatment of the vesals of American citizens at sea, by French ships

of war and privateers.

Second: A long and distressing embarge, which detained many American vessels at Bordeaux in 1793 and 1794

Third: The dishonor of bills and other evidences of debt due to American citizens for supplies furnished, at the request of France, to herself and to her West India islands, in a period of famine and civil war. Fourth: The seizure or forced sales of the car-

pes of American vessels, and the appropriation of them to public uses.

Fifth: The non-performance of contracts for

supplies, made by the French authorities with American citizens. Sixth: The condemnation of American vessels and cargoes under marine ordinances of France

incompatible with treaties.

Seventh: Captures, in violation of the provisions of the commercial treaty, of American vessels laden with provisions, bound to the ports of

the enemy.

To elucidate the nature of these injuries:

On the 9th of May, 1793, France authorized armed vessels and privateers to arrest and bring into her ports neutral ships, laden wholly or in part either with provisions belonging to neutra part either with provisions belonging to neutral nations and destined to an enemy's ports, or with merchandise belonging to an enemy, and declared that such merchandise should be lawful prize, while such provisions should be paid for according to their value at the place of destination, and just enification should be made for the freights and the detention of the ships. This decree was alternately rescinded as to the United States, rended again, and finally restored and left in full effect. American vessels known and confessed, but

found without passport or certificate in the exact form prescribed by the 22d article of the Teaty of Amity and Commerce, were, by a decree of the 3d of March, 1797, declared lawful prizes.

On the 2d of July, 1796, France decreed that she would treat neutral vessels, either as to constant the would treat neutral vessels, either as to constant the same man-

fiscations, searches, or captures, in the same man-ner that they suffered the English to treat them -a decree that punished with violence the en-durance of aggression committed by another, while it confided in the discretion of the second corsair to determine who, by becoming victims o the first, had offended against so extraordinary a

On the 29th of October, 1799, France decreed country, found wearing a hostile commission, or serving in an enemy's crew, should suffer as a pirate, without being allowed to allege duress, by lolence, menace or otherwise.

Beside one hundred and three vessels which

were detained by the embargo at Bordeaux, there is a list of six hu indred and nineteen which were captured and plundered before 1800. The true number of spoliations is said to have been three times greater. Contemporaneous expositions by the authorities of the United States placed the ag gregated damages sustained by the merchants at more than twenty millions of dollars. Of these damages, portions amounting to about ten millions of dollars, were adjusted and paid under the convention of 1800, finally carried into effect by the Louisiana treaty in 1803. The exact amount of damages due, however, is not now in question .before the Sepate, confines itself to unonly five millions without interest, in satisfaction

of all that shall be established.

The United States diligently prosecuted the claims from 1793 to 1800, but France did not so

ong remain a mere respondent.

Edmund C. Genet, her minister, claimed, and actually assumed to fit out privateers in American ports, to cruise against British vessels. Under the 22d article of the Treaty of Amity and Com-merce, he demanded what, in fact, were admiralty powers, for French Consuls in American ports, by virtue of article 8th of the Consular Conven-tion; while, under color of the 17th article of the Treaty of Amity and Commerce, he insisted that French vessels had a right to sell their prizes free from all duties in American ports; and, inally, he complained that British ships were permitted to take French goods out of American vessels, while a reciprocal right was denied to the French marine. All these complaints, however, were disallowed, upon grounds which will not now be superioned.

questioned.

Nor were the relations between the United States and Great Britain less disturbed. Beside having offended earlier and more flagrantly than Prance against our neutrality, Great Britain still in violation of the Treaty of Independence, held the military posts on our Western frontiers, and through it. held the military posts on our Western frontiers, and, through them, the control of the disaffected Indian tribes; nor did she seem unwilling, amid our domestic distractions, to provoke a new trial of our ability to maintain the independence she had so reluctantly confessed. While John Jay opened negotiations with Great Britain, at London, James Monroe, at Paris, assured the French Directory that Mr. Jay's object was to obtain compensation for spoilations, with an immediate restitution of the Western posts; and that he was positively forbidden from weakening the engagements existing between the United States and France. These assurances were effectual. Early in 1795 the French Directory decreed that the Treaty of Amity and Commerce should

thenceforth be strictly observed, and provided for indemnifying those who had suffered by the em-bargo at Bordeaux; and Mr. Monroe began a dispatch with announcing that a satisfactory arrangement of the claims for spoilations was at hand. But he closed the communication with a statement that the ground thus happily gained had been suddenly lost, by reason of rumored stipulations injurious to France in the British tresty just then signed at London.

A cloud of political mystery gathered noon

A cloud of political mystery gathered upon this compact from the day of its execution, the 19th of November, 1791, until it was finally pro-mulgated on the 9th of May, 1796. France complained of this concealment as disingenuous; and she ever afterward maintained that the United States had not merely violated their engagements with her, but had even abandoned, also, their professed neutrality, by relinquishing the principle that free ships made free goods, and by giving to England a too favorable standard of contraband. She therefore pursued her depredations more recklessly than before, and with the avowed purpose of compelling the United States to break their new engagements with Great Britain, her

ancient and most inveterate enemy.

Mr. Monroe was replaced by Charles Cotesworth Pinckney, but France now refused to receive or recognise a Minister. A new and august commission was constituted, consisting of Mr. Pinckney,
John Marshall, and Elbridge Gerry, who, after enduring many insults and baffling many intrigues,
returned to the United States. The United States, returned to the United States. The United States, apprehending war with not only France, but Great Britain also, laid the foundations of their present systems of military and naval defense; and the controversy with the former Power ripened into resistance, reprisal and retaliation. After two years had thus passed, and the French Directory had consented to negotiate, Oliver Ellsworth, William H. Davie, and William Vans Murray, proceeded to Paris as ambassadors. They found France just entering the fourth act of the drama of her Revolution, the Consulate of the youthful Congreror lation, the Consulate of the youthful Conqueror of Italy. The American ministers demanded indemnities for the spoliations, as a sine qua non. The French ministers, at whose head was Joseph Bonaparte, readily yielded this condition, but insisted at the same time on a recognition and renewal of the ancient treaties, with national damages for the violation of them, as a sine quantum non their part. The Americans, declining every case to continue the ancient treaties, proposed to purchase exemption from their most embarrassing stipulations. They offered ten millions of francs for a release from the article of guaranty, and three millions of francs for a reduc tion of the privileges granted to France by the 17th article of the Treaty of Commerce, to such as were allowed by the United States to the most favored nation. France rejected all such overtures, and the Commissioners, respectively receding from their extreme demands, concluded an accommodation by which the United States received com-pensation for the plunder of vessels not yet condemned, together with payment of the claims founded upon contracts, and also a satisfactory designation of articles contraband of war. The claims for spoliations in cases where condemnation had not yet passed, the original sine qua non on our part, together with the reciprocal claims of France for indemnities, and for a recognition and renewal of the ancient treaties, the original sine

renewal of the ancient treaties, the original sine quanon on the part of France, were reserved by the following article:

"Ant. 2. The Ministers Plenipotentiary of the two parties not being able to agree at present respecting the Treaty of Amilyand Commerce of the 8th of February, 1778, the Treaty of Amily and Commerce of the same date, and the Convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time: and until they may have agreed upon these points, the said Treaties and Conventions shall have no operation, and the relations of the two countries shall be regulated as follows."

The United States amended the new compact

The United States amended the new compact by striking out this second article altogether, and by adding a new one, which limited its duration to eight venrs.

Bonaparte, First Consul, accepted the amendments, with an explanation in these words "Provided, That by this retrenchment the two States re-nounce their respective pretensions which are the objects of the said [second] article."

The United States assented, and the compact was ratified as thus mutually amended.

This is the Convention of 1800. "The preten-

sions" which France thus relinquished were claims for indemnities for violations of the ancient treaties by the United States, together with a continuance and renewal of those treaties; and the "pretensions" which they thus renounced were the claims for indemnities for spoliations upon the property of American merchants, which are the subjects of the bill now before the Senate of the United States.

of the United States.

Mr. President, this review discloses:
First: That on the 6th day of February, 1778, and on the 14th of November, 1788, the United States and France entered into reciprocal political and commercial engagements mutually beneficial.

Secondly: That previously to the 30th of September, 1800, France violated her engagements by committing depredations, in which merchants, citizens of the United States, sustained damages to the amount of \$20,000,000, of which, after allowing all claims adjusted, there still remains the

sum of \$10,000,000, exclusive of interest.

Thirdly: That the United States negotiated also for a release from their ancient obligations; and that France conceded the claims for damages, but demanded national indemnities for a violation of the treaties by the United States, and also a con-

tinuance and renewal of them.

Fourthly: That the United States renounced their claims for damages, in consideration of a re-lease by France of the treaties, and of her claims

for damages.

Fifthly: That thus the United States confiscat-Fifthly: That thus the United States confiscated ten millions of private property of their merchants, and applied it to the purchase of national benefits, under a Constitution which declares that private property shall not be taken for public uses

ithout just compensation to its owners.

It seems to result from these facts, that the United States became immediately liable to pay to the American merchants the sums before due to them by France; and, as this obligation was assumed by the United States in lieu of their ancient engagements with France, undertaken to secure the establishment of the national liberty and independence, it becomes in equity invested with their sacredness and sanctions, and therefore ought to be regarded as a debt incurred for the at-tainment of the sovereignty, liberty and independ-

ence of the United States.

Why, then, Mr. President, shall not this debt. so ancient, and apparently so sacred and so just, be discharged?

I proceed to review the reasons which have been at various times assigned.

First: The intrinsic justice of the claims has

The very learned and justly distinguished Sen-ator from Missouri, [Mr. Benton] in a former de-bate, stated that France had justified these spoliations, on the ground that the ships seized were in part laden with goods belonging to Englishmen who had borrowed the names of Americans. have not been able to find evidence to support such a pretension. On the other hand, the diplo nguage of the United States constant matic la claimed that the sufferers were American citizens. Sir, if these claims are spurious, then it must be true, that either Flisworth, Marshali, Pinckney, Monroe, Morris, Jefferson, Adams the elder, and Washington, were ignorant of the fact, or that they colluded to defraud France. Neither position can be true. The claims are therefore

An objection raised by the Senator from Virginia [Mr. Hunter] falls under the same head. It is that the French Government have a list or table of the claims submitted in 1803, which was presented to the French Government by the American Commissioners, and which shows that the French, as the Senator says, supposed that they paid, under the Convention of 1803, all the claims of American citizens. I have this table before me. If the honorable Senator will refer to the treaty of 1800 he will find that it stipulated for the payment of the class specified in that table only—to wit: debts owing on contracts—and that the claims for the spoliations now in question were omitted expressly on the ground that they were excluded by the treaty of 1800. Here is the

article of that treaty:

"The debts contracted by one of the two nations we individuals of the other, or by the individuals of one of the two nations we notified the other, shall be a contracted in the other of the other of the other other

duced amount, in the apprehension of the Senator from Virginia, [Mr. Hunter] is just exactly that portion of the claims left out of the treaty, and which is the subject of the present bill. Secondly: It has been objected in late years

that the claims belonged to speculators. Certainly few of the sufferers survive, and soon all will have departed. But the claims are property; they were the property of those sufferers. As property, they could be transferred and transmitted by as-

signment, will and administration. These are signment, will and administration. Inese are only modes in which property is perpetuated; and this capability of being perpetuated is inherent in it, and is always rightfully and necessarily recognized and protected by all Governments, with proper limitations. Individual property is the baliast of the State. We to the State that casts it or asked. That State are to define a well and overboard. That State is sure to drift away, and to break upon the rocks. But the allegation that speculators have purchased these claims is denied while the bill protects the public if it be true None but a lawful assignee can take any from the bill, nor can he receive in any case more than he actually paid for the claim.

Thirdly: It is said that the evidences of the claim and of title must necessarily be loose and incon-

However this may be, the fault does not rest with the claimants, while the loss will fall upon them. Moreover, they must produce legal evidence. The United States can justly ask no more.

Fourthly: It is denied that the United States exchanged a release of the claims for a release of the

We have seen that, in form at least, the treaty of 1800 was such an exchange of those equiva-ents. It was understood to be such an exchange ents. It was understood to be such an exchange, in effect, when made. Robert R. Livingston said:

"It will be recollected by the distinguished characters who had the management of the negotiation, that the payment for illegal captures, with damages and indemnities, was demanded on the one side, and the renewal of the treaties of 1772 on the other; that they are considered as of the second article."—Lette to Tulkeyand, April 17, 1802.

Napoleon, at St. Helena, declared:

"That the suppression of the second article at once not

"That he suppression of the second article at once put an end to the privileges which France had possessed by the neaties of 1775, and annulled the just claims which America might have had for injuries done in time of peace."

— Conversation with Gourgand.

 Conversation with Gourgand.
 Notwithstanding these and similar contemporaneous expositions, it has been insisted here by two of my very eminent predecessors, Mr. Wright and Mr. Dix, as well as by others, that this confessed form of the treaty was a mere diplomatic artifice; that in fact it was not an exhange of equivalents; and that the claims fo spoliations were renounced because they could not be enforced, and not for an adequate and admitted consideration. Sir, did Oliver Ellsworth and his colleagues combine to practice a diplo-matic fraud upon France? Certainly not. Were they then circumvented? If we should grant that they were, there would yet remain John Adams, President in 1800, and Thomas Jefferson President in 1801, and the Senate of those years, all equally compromitted. Who will impeach their intelligence or their directness? Sir, upon whom shall we rely to vindicate our own less de served and ephemeral fame, if we strike so rudely the monuments where these great names li

If the United States can plead fraud in this or in any other case, how shall creditors or allies, in-dividuals or States, learn to distinguish between obligations which we admit to be valid and those which we claim a right to repudiate?

No, Sir; we cannot raise such a defense. Nor could it be maintained. No one questions the sincerity of the United States in prosecuting these claims. France was equally sincere in admitting and preferring her own. Even in her pira tical decrees, she pleaded an overpowering pres-sure, and promised reparation.

"Being informed that some French privateers have taken vessels belonging to the United States of America, I hasten to engage you to take the most speedy and effications means to put a stop to this robbery."—Bongs, Minister of Marine, to the Ordennateurs of France, March 30, 1793.

Thus France was ingenuous even in her agony of social convulsions.

of aocial convulsions.

"Although it the treaty of 1778] is reciprocal upon the whole, some provisions are more specially applicable to the fixed position of the United States, and others have allusion only to the eventful position of France. The latter has stipulated few advantages, advantages which do not in any respect in jure the United States, and the lawfilness of which to foreign nation can contest. The French nation will never renounce them."—M. Talleyrand to Mr. Gerry, to 12, 130.

The Convention of 1800 was then, in fact as Well as in form, a treaty of equivalents.

Can the United States impeach it now, on the ground of the inadequacy of the equivalent received? Certainly not, Sir. It is too late; the parties are changed. The merchants' claims are just the same, whether you received an adequate equivalent, or exchanged their demands for an incient consideration.

Nevertheless, let us pursue the objection. You say that however intrinsically just the claims may have been, they were renounced because you could not collect them without resort to war. I reply, a just claim against a civilized State is never valueless. If the State refuses to be just to-day, it may become more just to-morrow, is true that the United States were not bound declare war for the claims, but it is equally true that they had no right to confiscate them without

indemnity.

Thus we have reached one of the main defenses against these claims, viz:
Fifthly: That the ancient treaties had become
roid as against the United States, and therefore

e release of them by France in 1800 was valueless. This argument involves two propositions:

1. That France flagrantly violated those com-

2. That the United States perfectly fulfilled them.
1. That France flagrantly violated those com-

was the establishment of the liberty, sovereignty, and independence of the United States, in the War of the Revolution, and forever afterward. France fulfilled her guarantee in the Revolution. But the merit of that fulfillment is denied. It was said by one of my predecessors [Mr. Dix] that France was not moved by generosity or sympathy in entering into the treaties, or fulfilling them. Sir, a nation whose pride can condescend so far as to receive benefits, vindicates itselffully by the exercise of unquestioning and enduring gratitude.

Sir, interest and ambition do indeed too often mingle with the purest and highest of human motives, not less of States than of individuals. But the character of the actions in which they result. Sir, in the strait of the Revolution, your agents folfilled her guarantee in the Revolution. But the

the character of the actions in which they result. Sir, in the strait of the Revolution, your agents applied for aid, not to the King of France only, but to the Emperor of Germany, to the Kings of Spain and Prussis, and to the Grand Duke of Tuscany. From neither of them could they gain so much as a protest to discountenance the hire of mercenaries by the German Princes to the king of Great Britain, to be employed with savage Indian tribes against us. But France yield-dimany voluntears recognition, and armed allowed. d money, volunteers, recognition, and armed al-

It is true that in our oppressor France found a rival to humble and overthrow. But had Britain no other frival or enemy than France? If there were others, why did we not win them to our side? France did indeed exact a gnarantee from the Injud State. side? France did indeed exact a gnarantee from the United States in exchange for her own. But did we find any other Power willing to enter into such an exchange? Moreover, France conceded to us all of the conquest which should be made by the allied armies in the War of the Revolution except such as would have been useless to us and even including the Canadas, of which we had so recently assisted to deprive her, and she insist-

ed on no remuneration after the war should end.
Was there no magnanimity in that?
France was not actuated chiefly by ambition or revenge in making the engagements of 1778. The People and even the Court were filled with enthusiastic admiration of the United States and of their Fenelon had already educated even Royalty in that cause, in the palace and under the eye of the Grand Mosarque. The court, the army, the navy, the rulers and the people of France, had no standard of a hero but Washington, no model of a philosopher but Franklin, nor of a State but the United States. Seventeen years ago I tra-versed the now deserted and desolate chambers of the Bourbons of France. Never shall I for-get the gratified pride I felt when I found among the family pictures of the House of Orleans, one which commemorated the visit of Franklid to the Palais Royale, and among the illustra-tions of the national glory of Versailles, one that celebrated the surrender of Cornwallis. The failure of Louis XVI as a King, resulted from his attempting, like Nerva in ancient Rome, and Pio None in modern Rome, to combine the two incompatible things, the enlargement of popular free-dom with the maintenance of regal power. Nor may we undervalue the aid received from France. It decided the contest. It cost her more than three hundred millions of dollars, and hurried her into a revolution more exhausting than any other State, in the tide of times, has endared.

Thus it appears that France fulfilled faithfully

and completely ber chief engagement in the treaties of 1778, while it is admitted that she failed afterward in less essential obligations, but with protestations of adherence and promises of reperation.

2. Did the United States completely and absolutely fulfill their reciprocal obligations? When the war of 1793 broke out, France held all the possessions in America which they had guaran-teed to her forever, and they were all exposed. Yet the United States never guaranteed nor at-tempted to defend them; never devoted a life

nor even a dollar to that end. Thus, instead of standing on the fulfillment, we are at once brought to the necessity of justifying a non performance of the engagements. The justification has been placed on several grounds, viz:

1. That France did not demand fulfillment.

papers before us, but there are others which leave the fact very doubtful. the fact very doubtful.

"I beg you to lay before the President of the I
States, as soon as possible, the decree and the innote, and to abain from him the Callinet decision,
as to the guarantee that I have claimed the fulfillment
our colonies, bc.—E. C. Gene's Letter of Non. 14, 13

But if France did not demand the performance of the guarantee in the war, she insisted on its obligation. The United States practically disarowed and renounced it. The proposition is selfevident. The treaty stipulated Alliance, when France should demand it. The United States assumed Neutrality in every event.

The non-performance by the United States has been justified on the ground that the casus federis of the stipulated guarantee was a defensive war, and that the War of 1793 was not of that

character. In reply to this argument, I observe, in the first place, that the terms of the Treaty of Alliance stipulated for the execution of the guarantee in the case of "war to break out." any war, offendefensive. But the Senator from Virginia [Mr. Hunter] overpowers us with an argument which with me is irresistible. He says that only a defensive war must have been contemplated, because a stipulation for aid and alliance in an aggressive war would be immoral, unjust, and there-fore void. Sir, I acknowledge that higher law of universal and eternal justice. And I admit that all laws of States, and all treaties and compacts between States, which contravene its sacred provisions, are utterly void and of no effect. I accept, therefore, the Senator's definition of the casus aderis-that it was a defensive war. I control vert, and I rest my cause upon controverting, his assumption that the War of 1793, between the Allied Powers and France, was on her part an ag-

gressive and not a defensive war.

The very proclamation of neutrality implies a denial of that assumption. The war therein described is a war "between Austria, Prussia, Sardinia, Great Britain, and the United Notherlands, on the one part, and France on the other." was the aggressor the last party to be named But History has determined the character of the parties in that momentous contest.
"The first war of the French Revolution," says

Whenton in his History of the Law of Natio "originated in the application, by the Allied Powers, of the principle of armed intervention to the internal affairs of France, for the purpose of checking the progress of her revolutionary principles." les and the extension of her military power. War was declard, indeed, by France, but only as a reply to the ultimatum of a Restoration of Despotism tendered by the Armed League of Enemies.

Thus, sir, we have arrived at the true ground of defense of the neutrality of 1793, to wit: that perormance of the treaty was impossible.

Sir, in a mactical sense, performance was impos sible. First, on account of the condition of France. The parties in 1778 of course expected that Franco would remain an organized State, capable of conducting combined operations under the treaty, upon a method and towards an end, without danger from erself to her ally. But it was not so with France. She became not merely revolutionary, but disor ganized, having no certain and permanent head, n stable and effective legislature. All the organs of the State were shattered, broken, and scattered. "Nec color imperii, nec frons crat ulla Scnatus." The King, after unavailing changes of ministry,

convened the Assembly of the Notables; after holding the bed of justice, and after attempting to establish the new plenary courts, he called the States General, which soon became a Constituent Assembly, absorbing all the functions of Govern-ment. Suddenly the People of Paris rose, and ment. Suddenly the People of Paris Fose, and brought the King, Queen and Assembly into cap-tivity. A constitutional monarchy rose under the dictation of the People; but the King was de-graded, condemned, and executed, and a Repub-lic appeared. The Republic went down before the power of cabals, which rapidly succeeded each other, all sustaining their administrations, throughout a reign of terror, by the tribunal of blood. These unnatural convulsions could have but one end—the restoration of the State by a Dictator. That magistrate, in 1800, appeared in the person of Napoleon. When and where, be fore that event, could the United States have beer required to go to the aid of France? It was wel that France had regained her liberty; but her ally had a right, before going into a war with her against Europe, to see that liberty combined with gov-ernment and with public force—with national morality, with social order, and with civil manners. All this was wisely deemed by Washing-ton necessary to secure the United States against absolute dangers and render their alliance at all useful to France. For, on what side were useful to France. For, oh was and well the United States to array themselves? With the King, while he yet held the reins of State, or with the National Assembly, while abolishing the Monarchy? With the ephemeral Directories, which governed France through the guillotine. or with the Counter-Revolutionists, struggling to restore internal peace and repose? Well did Mr Lafferson say, that if the United States panted for war as much as ancient Rome—if their armies had been as effective as those of Prussia if their coffers had been full and their debts ob be put at hazard, in an enterprise with an ally bus deranged and disorganized. And what was the condition of the United

And what was the condition of the United States, that they should peril all in the domestic rage of France, and her foreign strife? Mr. Jefferson was no false interpreter, and he thus described it. "An infant country deep in debt, necessitated to borrow in Europe—without land or naval force—without a competency of arms and ammunition-with a commerce connected beyone he Atlantic-with the certainty of enhancing th the Atlantic—with the certainty of enhancing the price of foreign productions and of diminishing that of our own—with a Constitution little more than four years old, in a state of probation, and not exempt from foes." No greater calamity than war could then have fallen upon the United States, nor could war, in any other case, ever come in a form so fearful. It was not a fault of Washington, as it was of Cato, not to see that public affairs were incapable of perfection, and that States could not be governed without submitting lesser interests to greater. On the conmitting lesser interests to greater. On the con the measure of his duty was that of Cic in the Consulship—to take care that the Republic should suffer no detriment. Well and wisely did be perform that duty. He could not aid France, but he saved his own country. Forever, then, let the justice and the wisdom of Washington, in that memorable crisis, stand vindicated and es-

But what does all this prove? Just this, and no more: That circumstances, affecting France and the United States equally, unforeseen and imperious, prevented the United States from imperious, prevented the United States from even undertaking to perform their compact with France, in the way stipulated in a particular emergency. But the circumstances creating this impossibility were not alone the fault or misfortune of France, but arose in part out of their own condition; and the omission to perform it assured the safety and promoted the welfare of the United States. Under such circumstances the United States owed to France, if not indemnities for past non-performance, at least recognition and re-newal of the ancient treaties. If, then, France was held by the treaties, because the United States excused their non-performance, they were equally bound to extenuate her deviations, under uch a pressure, from prudence, order, and even com justice, if she were willing to make repar-tion. None knew so well as they, that France proke the treaties in less essential obligations, not from want of virtue to be faithful, but from want of magistracy to enforce fidelity. But while France was always willing to make reparation, he United States insisted on being absolutely the United States insisted on being absolutely free from obligations. Jay's treaty was confess-edly injurious to France. Either that treaty was necessary to the United States, or it was un-necessary. If it was unnecessary, the complaints necessary. If it was unnecessary, the complaints of France were just. If necessary, then she was entitled to equivalents. A release from the engagements in the ancient treaties was necessary necessary, then the United States ought not to have bartered the merchants claims away for it. If it was necessary, then the United States received an adequate equivalent.

Thus it appears that the ancient treaties had not lost their obligation against the United States by reason of any flagrant violation of them by

France.

Sixth: The opponents of this bill next insist that the treaties had been abrogated by an Act of Congress which was passed on the 7th day of July. Whereas, The treaties concluded between the United

States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of the injuries so committed have been

refured, and their attempts to negotiate an amicable adjust-ment of all compaints between the two nations have been repelled with indignity: And whereas, under the authority of the French Government there is yet pursued against the United States a system of predatory vicence, infrasting it is said treatles, and heatile to the rights of a free and inde-

e said treaties, and heatile to the rights of a free and these adent nation—
"He it enseted by the Senate and House of Representative
"He it enseted by the Senate and House of Representative "Be st enotice by the Samerica in Congress assembled. That the United States are of right freed and exonerated from he supulsations of the treaties and of the Consular Conven-tion hereticher concluded between the United States and Innice, and that the same shall not henceforth be regarded Such an inference is warranted by some of the

The treaty-making power is vested not in Congress, but in the President, by and with the advice and consent of the Senate. A valid treaty can be abrogated only by the power which is competent to make one. A treaty already void needs to set of Congress or of the President and Senate o act of Congress or of the President and Senate to abrogate it, while one not void cannot be abrogated except in the constitutional way.

A treaty, moreover, is the act of two parties.

Neither can dissolve it without the concurrence of the other. The act of Congress, then, left the obligations of the ancient treaties, so for an Ersman bligations of the ancient treaties, so far as obligations of the ancient treaties, so ar as France
was concerned, and so far as the United States
politically were concerned, just as it found them.
Seventhly: As a last resort, the opponents of
these claims assert that the release of the ancient
treaties was valueless, because they had been abromental hu was between the two notions.

ted by war between the two nations. I waive the objection that these treaties were of such a nature that they could not be abrogated by war, and I simply deny that any such war occurred.

If war did take place, it must have been begun in some way and at some time, and have ended in some other way and at some other time.

It is quite certain that France never declared war against the United States, and equally so that the United States never declared war against France. There were hostilities between them, but hostilities are not always war. The statute ok of the United States shows the nature and

extent of these hostilities.

We were not at war with France on the 14th of January, 1797; for on that day Congress declared it a misdemeanor for an American to engage in privateering against nations with whom the United States were at peace, and France was theoregarded as in that relation, because the United States afterward authorized privateering against We were not at war with France on the 28th

of May, 1798, for on that day Congress directed that a provisional army should be raised in the event that a declaration of war against the United States, or of actual invasion of their territory by a foreign Power, or of imminent danger in Such invasion.

Nor were we at war with France on the 13th

of June, 1798; for on that day Congress suspended commercial relations with France—a measure quite unnecessary, if war had already broken up that intercourse. Nor were we at war on the 25th of June, 1798;

for on that day Congress authorized American vessels to oppose and resist searches, restraints, and seizures, by armed vessels of France. Such opposition and resistance would have needed no sanction if committed in open war.

We were not at war with France on the 2d day

of March, 1799; for on that day Congress authorized the President to levy and organize additional

regiments, in case war should break out between the United States and a foreign European Power.

We were not yet at war on the 20th of February, 1800; for on that day Congress directed that all further callstments should be suspended, unless during the results. during the recess of Congress, and during the ex-isting differences (which existing differences the sequel will show were not war) between the United States and France, or imminent danger of invasion of the territory of the United States by that Republic, should, in the opinion of the Presi dent, be deemed to have arisen.

dent, be deemed to have arisen.

Finally, we were not at war on the 30th of September, 1800, for on that day the then "existing differences" between France and the United States were adjusted by a Convention, concluded on the basis that although, in the opinion of the United States, the aggressions of France would "well have justified an immediate declaration of war, yet that they had neverthen declaration of war, yet that they had neverthe less been desirous of maintaining peace, and of leaving open the door of reconciliation with France, and had therefore contented themselves preparations for defense, and measures cal

culated to protect their commerce." - Instructions to American Ministers at Paris, October 22, 1799. Thus, Sir, it is shown that, if a war existed. neither its beginning, nor its end, nor the way of either, can ever be ascertained, and that the Uni-ted States were profoundly ignorant of its exist-ence. If any man in France, more than another, ence. If any man in France, more than another, would have known the existence of such a war, that man was Napoleon Bonaparte. Yet we have seen that the music of this "soft and silken war of the Great Captain of never reached the ear of the Great Captain of France. For, in speaking of the spoliations, he described them as having been committed "in time of peace." It was not thus with the other enemies of France, while he was at liberty with-in her borders, nor has it been so that the coun-trymen of Washington, of Taylor, and of Scott, have conducted their campaigns in other conflicts. It appears from this review that the treaties in

question had been recognized always by both par-ties, and broken in parts by both, but under cirumstances of excuse and palliation, and that they were therefore in force when the United States and France mutually agreed to extinguish them on the condition of a release of the claims for in-demnities. Of the value of that agreement it is unnecessary to say more, than that without it the United States might have been held by the an cient treaty of alliance to have followed to some extent the varying fortunes of France through her wars during the Consulate and the Empire, until she found repose from complete exhaustion, on the field of Waterioo.

No reason for rejecting these claims remains, except that they have not been paid heretofore.—

But mere lapse of time pays no debts, and dis charges no obligations. There has been no re lease, no waiver, no neglect, no delay, by the creditors. They have been here twenty-live times in fifty years; that is to say, they have appeare in their successive generations, before Congres since their claims against the United States accrued. Against such claims and such creditors

there is no prescription.
It is said, indeed, that the nation is unable to pay these claims now. I put a single question in reply: When will the nation be more alluent

The Senator, [Mr. HUSTER] save again, that, if the debts are just, we should pay the whole, and not a moiety: if the claims are unjust, then the bill proposes a gratuity—that in the one case the appropriation is too small, and in the other too great. This is the plea of him who, I think it was in Ephesus, despoiled the statue of Jupiter of its golden robe, saying, gold was too warn in summer, and too cold in winter, for the shoulders of the god.

ders of the god.

Sir, Commerce is one of the great occupations of this nation. It is the fountain of its resources, as it is the chief agent of its advancement in civili zation and enlargement of Empire. It is exclusively the care of the Federal authorities. It is for the protection of Commerce that they pass laws, make treaties, build fortifications, and maintain navies upon all the seas. But justice and good faith are surer defenses than treaties, fortifi-cations or naval armaments. Justice and good faith constitute true national honor, which feels a stain more keenly than a wound. The nation that lives in wealth and in the enjoyment of power, and yet under unpaid obligations, lives in dishonor and in danger. The nation that would be trulgreat, or even merely safe, must practice an aus tere and self-denying morality.

The faith of canonized ancestors, whose fame

now belongs to mankind, is pledged to the payment of these debts. "Let the merchants send hither well-authenticated evidence of their claims, and proper measures shall be taken for their relief."
This was the promise of Washington. The evidence is here. Let us redeem the sacred and venerable engagement. We have inherited with it ample and abundant resources, through his sagacity and virtue, and to them we ourselves have added the newly discovered wealth of Southern plains, and the hidden treasures of the Western coasts. With the opening of the half contrary coasts. With the opening of the half century, we are entering upon new and profitable intercourse with the ancient Oriental States and races, while we are grappling more closely to us the new States on our own Continent. Let us signalize States on our own Continent. an epoch so important in commerce and politics by justly discharging ourselves forever from the yet remaining obligations of the first and most sacred of our national engagements. While we are growing over all lands, let us be rigorously just to other nations, just to the several States, and just to every class and to every citizen; in short, just in all our administration, and just toward all mankind. So shall Prosperity crown all our enterprises-nor shall any disturbance within nor danger from abroad come nigh unto us, nor alarm us for the salety of fireside, or Fame or Capitol.

ISTHMUS OF TEHUANTEPEC.

The Trip of the Alabama-The Tehuantepee. Surveying Company.

The following is the account furnished to them. derwriters by Capt. R. W. Fester, commander of

the Alabama, of her pioneer trip to the Coatzacod. cos river and Isthmus of Tehuantepec

The run to Vera Cruz, where we arrived on the 16th ult. was for the season unusually pleasant. A melancholy incident occurred on the passage in the loss of Mr. Reidfield, first officer, a worthy

man and skillful in his profession.

It was understood before we left New-Orleans that the detention at Vera Cruz was not to be that the detention at Vera Cruz was not to be longer than three days. At the expiration of that time permission could not be obtained from the local authorities to prosecute the voyage. They either opposed impediments to the departure of the vessel, or else they had not received from the cavital definite instructions relative to the metric. capital definite instructions relative to the matter. At length, on the evening of the 23d ult the long looked for permit arrived, and on the following day we left for the Coatzacoalcos River.

The distance from Vera Cruz to the entrance

of the river is about 123 miles. Early on the morning of the 25th the Alabama approached the bar and received a pilot. The sea was smooth and the bar was crossed on a depth of 12 feet.-

and the bar was crossed on a depth of 12 feet.—
It must be borne in mind that at the time the tide
was at two thirds flood. At full tide there must
be a depth of water of 13 feet.

The banks of the river are low and level. They
are overflowed during a high stage of water; but
otherwise they afford rich and abundant pasture
for cattle, herds of which we saw grazing on both When the waters rise they are driven to

the high lands.

While ascending the river many exclamations were heard, "What a splendid—what a beautiful we arrived at about 12 miles from the mouth, the water was brackish. There are no material obstructions. Indeed only one of which we know, viz: a ledge of rocks under water. There is, however, a good channel between it and the Western bank. The danger can be discerned by the rippling of the current on the South-west extremity. We placed there a black spar baoy, with chain and iron moorings. If not designed,

removed, it will last for years.

There are only two abrapt windings in the rive.
They offer no difficulty, however, even for a vessel
of the size and length of the Alabama. On the entire route to Minatitian we found a sufficient depth of water for vessels of a large class.

depth of water for vessels of a large class.

Our arrival at Minatitian was in the afternoon of Christmas Day. The population crowded the banks to welcome us. The stars and stripes waved on shore as on board. A gun was fired, calling forth three hearty cheers. It was an era in the annals of the Tehuantepec surveying expedition.

On the following day the debarkation took place. The surveying parties pitched their tents in the middle of the town. The necessary arrangements were made to enter on the duties of the survey.

At Minatitlan the width of the river, by actual measurement, is not less than 780 feet; and the

measurement, is not less than 780 feet : lepth of water, for the winding of the Alaba not less than 650 feet. The depth of water close in shore was sufficient to allow of mooring the vessel directly alongside of the river bank. vessel directly alongside of the river bank.

Minatitlan is situated on a rising eminence. It
is a town of small dimensions, and contains about
220 inhabitants. With the exception of a coule
of French families, the population is of a mixed
race. The buildings are of poles, walled with a
composition of brown clay and stubble. The

composition of brown clay and stubble. The roofs are made with the leaves of the palm tree, of a suitable thickness to exclude rain and wisd. The floors are of clay. Two or three hammoots, some rude chairs of the country make, and a few cooking utensils, constitute the furniture.

We found the inhabitants kind and courteous.

They are represented as being amiable and inof-fensive, but indolent in the extreme. No com-pensation could induce them to labor. They pre-fer inert idleness with poverty, and a simple diet of fruit, tortillas, and a little jerked beef, to exer-tion of any kind. tion of any kind.

From the town the land in a westerly direction

rises gradually for a distance of a mile and a half, forming then an elevated ridge almost W. S. W. or nearly parallel with the sea coast. There are ine ranges for cattle, and the soil in many places is rich and well litted for cultivation; yet not an inclosure or a vestige of cultivation is to be seen: The dwellings on the ranches are destitute of tress or shrubbery. We rode nine miles on this ridge through a deligatful country, and occasionally crossing deep declivities, to an Indian town called Coasloacnque. It contained about 3,000 inhabit ants. These aboriginals are more civilized than

many of our Northern tribes. They have, judging by appearance, retained the same habits as when the epaciards first came among them.

We passed on the route many fine mahogany trees. They abound at the head of the Coatzaronalogs River and the coatz coalcos River and on its branches. With the sid of saw-mills it would become available for frame and boarded houses. The natives assert that I possesses qualities which render it indestructible by insects. All other kinds of the softer wood All other kinds of the softer woods are, when cut, soon destroyed by their depreda

Consloacaque is scattered over a vast area of ground. All the buildings or chosas, which we saw, contain only one apartment. The church situated on a beautiful green crest. It is a high and oblong building of considerable length, and is constructed of the usual materials—brown clay and paim leaf. On a beam in the center of the and paim leaf. On a beam in the center of the interior building are inscribed the names of the architect and several priests. It bears the date of 1796. Fine old cocoanut trees are planted parallel to the wings and front of the church, and

make a beautiful appearance.

From thence we rode four miles to the pretty little village of Oteapan. It contains about 600 inhabitants, principally Indians. Here appeared to be the most elevated part of the ridge over which we had passed. We looked down on Mount San Juan, and on part of the base of the

volcanic mountain, St. Martin. The climate here must be dry and healthy. Two miles further carried us to the neat little Two miles further carried us to the neat little town of Chinameca. It contains 1,000 inhabitants of a mixed race. We were taken to the parsonage. The priest we found to be a very intelligent and learned man. He was formerly a member of the Mexican Congress. He was laboring under bilious indisposition. As there was neither physician nor apothecary in the town, Dr. Greenleaf, ship surgeon, on the following day sent the necessary medicines for his relief. At this place we, for the first time, saw a few well constructed houses, supported on arches in front, and

place we, for the first time, saw a few well coastructed houses, supported on arches in front, and having balconies. Our time was too limited to admit of a ramble through the mine.

On our return, late in the afternoon, we passed on the road many Indians returning to their homes. The young females whom we met, bearing loads of fine wood, invariably on our approach field to to the woods. Coffee, cotton, sugar, corn, together with every variety of tropical fruits, could be raised on the high lands in great abundance. Further up the Coatzacoalcos River, and more to the south, where the climate is drier, the same prothe south, where the climate is drier, the same pro ductions, with the addition of indigo, cocoa, vanilla and a variety of dyes, could easily be cultivated. Whether the completion of the contemplated railroad across the Isthmus will stimulate the inhabitants to commercial and agricultural so tivity, is a question yet to be solved. Nature, in these beautiful regions, has been most bot man has remained indolent and neglectful.

man has remained indolent and neglectful.

At noon on the 28th we left Minatitlan. The bank was lined with a great concourse of people, many of whom, hearing of our arrival, had come from the interior. The wind by the time we arrived at the mouth of the river blew from the north, with indications of an increasing gale. On the 29th it blew a heavy gale, which soon raised a high, broken sea on the har. This continual a high, broken sea on the bar. This continu until the evening of the 3d January. A deten-tion was unavoidable. We congratulated our-selves on being so snugly ensconced in so line and secure a harbor.

Boston Items .- A fire occurred on Commercial st. Boston, on Wednesday, which destroyed the mahogany warehouse of W. R. Carnes E. G. Libbey, and the match factory of E. Byan The Humane Engine Co. of Philadelphia arrived on Wednesday afternoon, and were well re-ceived....The National Lancers gave a Ball on Tuesday evening in compliment to the officers of the New York Regiment. Among the invited guests were the Mayors of Boston, Charlestows and Roxbury ... A practicing physician, Dr. Timothy H. Smith, had been indicted for manslaughted in causing the deaths of three children through

GOVERNOR QUITMAN.—The Vicksburg Whis on's decision will not sustain Governor Quitman in his resistance to the law, but w his immediate appearance at New Orleans to swer to the charge in his Cuba indictment.